EXHIBIT A

CALIFORNIA LEGISLATURE—1977-78 REGULAR SESSION

Assembly Concurrent Resolution No. 34

Introduced by Assemblyman Cullen

March 29, 1977

REFERRED TO COMMITTEE ON GOVERNMENTAL ORGANIZATION

Assembly Concurrent Resolution No. 34—Relative to the boundaries of the State of California.

LEGISLATIVE COUNSEL'S DIGEST

ACR 34, as introduced, Cullen (G.O.). State of California: boundaries.

This measure would request the Governor and the Attorney General to take such action as is necessary to verify and defend the boundaries of the State of California as they are set forth in the 1849 California Constitution.

Fiscal committee: yes.

WHEREAS, A question has arisen with respect to the correct location of California's eastern boundary from the southern boundary of the State of Oregon, running south on the 120th degree of west longitude to its intersection with the 39th degree of north latitude; and

WHEREAS, It is essential to maintain the integrity of the boundaries of the State of California as they were constituted and set forth in the 1849 Constitution of the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Governor and the Attorney General of the State of California are requested to take such action as is necessary to verify and defend the boundaries of the State of California as they are set forth in the 1849 California Constitution; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor and the Attorney General.

In the Supreme Court of the United States

OCTOBER TERM, 1976

No. ....., Original

STATE OF CALIFORNIA,

Plaintiff,

v.

STATE OF NEVADA,

Defendant.

COMPLAINT

The State of California appearing herein through Evelle J. Younger, its Attorney General, acting pursuant to the authority and powers vested in him by Article V, section 13 of the Constitution of California, institutes this original action against the State of Nevada.

I

The original jurisdiction of this Court is invoked under Article III, Section 2, clause 2 of the Constitution of the United States and 28 U.S.C. Section 1251.

II

The State of California was admitted to the Union of the United States of America by Act of Congress found in the United States Statutes at Large, vol. 9, p. 452. The act

approved the California Constitution of 1849 which provides in pertinent part:

> The boundary of the State of California shall be as follows: Commencing at the point of intersection of the forty-second degree of north latitude with the one hundred and twentieth degree of longitude west from Greenwich, and running south on the line of said one hundred and twentieth degree of west longitude until it intersects with the thirty-ninth degree of north latitude. . . Article XII, Section 1.

An accurate representation of the placement of this boundary with respect to the two states is attached as Exhibit 1 and incorporated by reference herein.

III

The State of Nevada was admitted to the Union of the United States by Act of Congress and Presidential Proclamation. United States Statutes at Large, vol. 13, Ch. 36, p. 30; and Proclamation No. 22, 13 Stats. at Large, App. p. 63. The Act and Proclamation approved the Nevada Constitution, which in relevant part provides that the western boundary of Nevada shall be the eastern boundary of California and further provides that:

> "all such territory lying west of and adjoining the boundary line herein prescribed, which the State of California may relinquish to the Territory or State of Nevada, shall thereupon be embraced within and constitute a part of this state." Nevada Constitution, Article 14, section 1.

IV

Following border disputes that led to armed conflict, the State of California and the Territory of Nevada in 1863 agreed to survey and post the segment of the California-

Nevada boundary north of Lake Tahoe to Oregon; i.e., the one hundred and twentieth meridian between the forty-second and thirty-ninth north latitudes. The survey, which led to establishment of a line hereinafter referred to as the "Houghton-Ives" line, was conducted by California Surveyor General, J. F. Houghton, and the Commissioner for the Territory of Nevada, Butler Ives.

V

The "Houghton-Ives" line was adopted by the California Legislature in 1864 as the eastern boundary line of the State of California (Cal. Stats. 1864, Ch. 455, pp. 506-507, reenacted as California Government Code section 160 in 1943 Cal. Stats. 1943, Ch. 134, p. 896.) It was observed by the State of California from 1864 to 1872.

VI

The "Houghton-Ives" line was adopted in 1865 by the Nevada Legislature as the legal western boundary line of the State of Nevada. Nevada Stats. 1864-1865, Ch. 31, pp. 133-134, 347. It was observed by the State of Nevada from 1865 to 1872.

VII

In 1872 the United States Government through its General Land Office contracted with Allexey W. Von Schmidt to survey, post and monument the one hundred twentieth meridian between the forty-second and thirty-ninth degrees north latitude. This line, hereinafter referred to as the "Von Schmidt" line, was surveyed, posted and monumented. Its location varies from 3000 to 6000 feet east of the "Houghton-Ives" line. It has been recognized and observed by both states and their governmental subdivi-

sions from 1872 to the present time in the provision of governmental services, in assessment and taxing practices, and in the exercise of civil and criminal jurisdiction, and constitutes the lawful boundary between the states by acquiescence.

VIII

There is a controversy between the States of California and Nevada in that by statute, the State of Nevada asserts dominion and jurisdiction to territory over which the State of California has exercised dominion, jurisdiction and control for 105 years for all governmental purposes; such territory being the lands located in the area between the "Von Schmidt" and the "Houghton-Ives" lines. Said area is approximately 3000 feet wide at the north end of Lake Tahoe, and increases to 6000 feet wide further north. The State of Nevada thereby claims right, title or interest in said land adverse to the State of California.

IX

The State of California has, since 1872, continuously exercised jurisdiction in the said territory described in Paragraph VIII above, all without objection from the defendant State of Nevada. The incidents of jurisdiction exercised by said State of California include, but are not limited to, assessments, taxing, the provision of governmental services, and the exercise of police power. Nevada has acquiesced in California's exercise of dominion and jurisdiction, and California has therefore obtained title to the land in question.

X

The propriety of the "Von Schmidt" line has, from time to time since 1872, been questioned in the reports of gov-

ernmental agencies. Said reports have caused uncertainty and the recurring possibility of challenges to the lawfulness of such boundary line on the part of both governmental agencies and private persons. A map of the northern shore line of Lake Tahoe indicating the location of various lines as set forth above is attached as Exhibit 2 and incorporated by reference herein. However, neither the State of California nor the State of Nevada has demanded a resurvey of the "Von Schmidt" line with respect to the affected area, and both states have continuously observed said line since 1872.

XI

The statutory claim of Nevada and the questions raised concerning the boundary more particularly described in Paragraphs IX and X above have created, and will continue to create, uncertainty of titles, and may cause a multiplicity of actions involving the titles to individual parcels, challenges to assessments, the payment of taxes and the defense of criminal actions, and attempts to conduct businesses which may be unlawful in California. The claim and actions of the State of Nevada therefore cause, and will continue to cause, irreparable injury to the plaintiff, for which there is no adequate remedy at law.

WHEREFORE, PLAINTIFF PRAYS:

1. That a decree be entered adjudging the eastern boundary of California between the thirty-ninth and forty-second degrees north latitude to be the "Von Schmidt" line;

2. That a decree be entered adjudging that the State of Nevada has no right, title or interest to any such lands west of the "Von Schmidt" line; and perpetually enjoining the defendant from asserting any right, title or interest to

said land or any part thereof, or from interfering with the possession of California in said land;

3. That this Court issue an interlocutory decree in aid of its jurisdiction prohibiting the State of Nevada, its officers, employees, agents, courts, agencies and political subdivisions from exercising any acts of jurisdiction in the lands west of the "Von Schmidt" line during the pendency of this action;

4. For plaintiff's costs of suit herein; and

5. For such other and further relief as may be proper.

DATED: April 20, 1977.

Respectfully submitted,

EVELLE J. YOUNGER
Attorney General of the State of California

N. GREGORY TAYLOR
Assistant Attorney General

JAN S. STEVENS
Assistant Attorney General

ALLAN J. GOODMAN
Deputy Attorney General

ROBERT D. BRETON
Deputy Attorney General

MARGARET RODDA
Deputy Attorney General

Counsel for Plaintiff, State of California

EXHIBIT 1 OF COMPLAINT

EXHIBIT 2 OF COMPLAINT